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Texas Department of Licensing and Regulation Working Draft Rules and Request for Informal Public Comments

The Texas Department of Licensing and Regulation (TDLR) has prepared a working draft of possible changes to the rules at 16 Texas Administrative Code, Chapter 115, regarding the Midwives program. TDLR will accept informal comments on the working draft rules until November 16, 2022. Informal comments may be submitted electronically on TDLR's website at <https://ga.tdlr.texas.gov:1443/form/gcerules>.

Summary of Working Draft Rules

This section is a general summary of the changes included in the working draft rules. The rule text following the summary provides the complete list of specific changes.

- General cleanup
 - Updates definitions to provide consistent terminology and streamline language.
 - Adds a new section for general requirements for all applications.
 - Rephrases and reorganizes language to improve clarity.
- Retired midwives
 - Adds detailed provisions for retired midwives providing voluntary charity care.
 - Lowers the retired midwife license application fee from \$275 to zero.
- Basic midwifery education
 - Updates clinical experience requirements to align with NARM standards.
 - Updates the requirements for course approval.
 - Allows courses to accept student hours transferred from other courses or preceptors.
- Preceptor supervisory responsibilities
 - Requires clinical experience to be under direct supervision—Real-time, in-person observation and guidance by a preceptor who is physically present and immediately available to provide any necessary assistance and personally respond to any emergency.
 - Adds additional requirements for clinical experience:
 - The client must provide informed consent for the student's involvement.
 - The student cannot advertise that the student is a midwife.
 - The student cannot receive compensation from the client.
- Informed choice and disclosure statement
 - Requires use of the form provided by the department.
 - Adds requirement for form to be provided to client in both oral and written form.

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Working Draft Rules

Underlined text is new language.
[~~Strikethrough text~~] is deleted language.

CHAPTER 115 MIDWIVES

§115.1 Definitions

The following words and terms when used in this chapter shall have the following meaning unless the context clearly indicates otherwise.

(1) – (3) (No change.)

(4) Basic ~~[Approved]~~ midwifery education course ~~[courses]~~--A course ~~[The basic midwifery education courses]~~ approved by the department to fulfill the education requirement for obtaining an initial midwife license.

~~[(5) Code--Texas Health and Safety Code.]~~

(5) ~~[(6)]~~ Collaboration--The process in which a midwife and a physician or another licensed health care professional of a different profession jointly manage the care of a woman or newborn according to a mutually agreed-upon plan of care.

(6) ~~[(7)]~~ Commission--The Texas Commission of Licensing and Regulation.

(7) Compensation--Direct or indirect payment of anything of monetary value, except payment or reimbursement of reasonable, necessary, and actual travel and related expenses.

(8) (No change.)

(9) CPR certification--Official documentation of successful completion of a course in cardiopulmonary resuscitation issued by:

(A) the American Heart Association, for health care providers;

(B) the Red Cross, for the professional rescuer;

(C) the National Safety Council, for healthcare providers and the professional rescuer; or

(D) any other provider of a CPR course for health care providers currently accepted by the Department of State Health Services' Office of EMS/Trauma Systems Coordination.

(10) ~~[(9)]~~ Department--The Texas Department of Licensing and Regulation.

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(11) Direct supervision--Real-time, in-person observation and guidance by a preceptor who is physically present and immediately available to provide any necessary assistance and personally respond to any emergency.

(12) [(10)] Executive director--The executive director of the department.

(13) [(11)] Health authority--A physician who administers state and local laws regulating public health under the Health and Safety Code, Chapter 121, Subchapter B.

(14) [(12)] Local health unit--A division of a municipality or county government that provides limited public health services as provided by the Health and Safety Code, §121.004.

(15) MANA--The Midwives Alliance of North America.

(16) MEAC--The Midwifery Education Accreditation Council.

(17) NARM--The North American Registry of Midwives.

(18) [(13)] Newborn care--The care of a child for the first six weeks of the child's life.

(19) [(14)] Normal childbirth--The labor and vaginal delivery at or close to term (37 up to 42 weeks) of a pregnant woman whose assessment reveals no abnormality or signs or symptoms of complications.

(20) [(15)] Physician--A physician licensed to practice medicine in Texas by the Texas Medical Board.

(21) [(16)] Postpartum care--The care of a woman for the first six weeks after the woman has given birth.

(22) Preceptor--an individual who provides direct supervision of a student and is:

(A) a midwife licensed in Texas;

(B) a certified nurse-midwife, as defined in the Act; or

(C) a physician licensed in Texas and actively engaged in the practice of obstetrics in an out-of-hospital setting.

[(17) Program--The department's midwifery program.]

(23) [(18)] Public health district--A district created under the Health and Safety Code, Chapter 121, Subchapter E.

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(24) [(19)] Referral--The process by which a midwife directs the client to a physician or another licensed health care professional who has current obstetric or pediatric knowledge and who is working under supervision and delegation of a physician.

(25) [(20)] Retired midwife--A person holding a retired voluntary charity care status license under §115.16.~~[midwife licensed in Texas who is over the age of 55 and not currently employed in a health care field.]~~

(26) [(21)] Standing delegation orders--Written instructions, orders, rules, regulations or procedures prepared by a physician and designated for a patient population, and delineating under what set of conditions and circumstances actions should be instituted, as described in the rules of the Texas Medical Board in 22 Texas Administrative Code, Chapter 193 (relating to Standing Delegation Orders) and §115.111 of this title (relating to Coordinating Care with Other Health Care Providers).

(27) Student--A person performing activities under a basic midwifery education course or a preceptorship to fulfill the requirements for a midwife license or certification by NARM.

(28) [(22)] Transfer--The process by which a midwife relinquishes care of the client for pregnancy, labor, delivery, or postpartum care or care of the newborn to a physician or another licensed health care professional who has current obstetric or pediatric knowledge and who is working under the supervision and delegation of a physician.

(29) [(23)] Voluntary charity care--Midwifery care provided without compensation and with no expectation of compensation.

§115.2 License Required

[(a)] A person may not practice midwifery unless the person holds a license issued under the Act. ~~[In order for an individual to legally practice midwifery in Texas, she/he must be currently licensed by the department.]~~

[(b)] ~~A midwife's initial license shall be valid from the date issued until March 1 of the following renewal period.]~~

§115.3 (No change.)

§115.4 Advisory Board Membership

The Midwives Advisory Board consists of nine members appointed by the presiding officer of the commission, with the approval of the commission as follows:

(1) five licensed midwife members each of whom has at least three years' experience in the practice of midwifery;

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(2) – (4) (No change.)

§115.5 Terms; Vacancies

(a) Members of the advisory board serve staggered six-year terms. The terms of three members expire ~~[expiring]~~ on January 31st of each odd-numbered year.

(b) If a vacancy occurs on the board during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.

(c) (No change.)

§§115.6 – 115.7 (No change.)

§115.12 General Application Requirements

(a) Unless otherwise indicated, all applications, required information, and documentation of credentials must be submitted on department-approved forms and in the manner prescribed by the department.

(b) Applicants must submit original or certified copies of documents if requested by the department.

§115.13 Initial Application for Licensure

(a) Initial licensure. ~~[Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official department-approved forms.]~~ An individual may apply for licensure as a midwife at any time during the year by submitting the following to the department:

(1) a completed application; ~~[on a department-approved form which shall contain:]~~

~~[(A) specific information regarding personal data, social security number, birth date, other licenses held, and misdemeanor or felony convictions;]~~

~~[(B) the date of the application;]~~

~~[(C) a statement that the applicant has read the Act and these rules and agrees to abide by them;]~~

~~[(D) a statement that the information in the application is truthful and that the applicant understands that providing false and misleading information on items which are material in determining the applicant's qualifications may result in the voiding of the application, or denial or the revocation of any license issued; and]~~

~~[(E) any other information required by the department.]~~

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(2) proof of successful ~~[satisfactory]~~ completion of a continuing education course covering the current Texas Midwifery Basic Information and Instructor ~~[Instructors]~~ Manual; ~~[-and:]~~

~~[(A) satisfactory completion of a mandatory basic midwifery education course approved by the department and the North American Registry of Midwives (NARM) exam or any other comprehensive exam approved by the department;]~~

~~[(B) Certified Professional Midwife (CPM) certification by NARM; or]~~

~~[(C) satisfactory completion of a basic midwifery education course accredited by the Midwifery Education Accreditation Council (MEAC), and the North American Registry of Midwives (NARM) exam, or any other comprehensive exam approved by the department.]~~

(3) proof of one of the following:

(A) Certified Professional Midwife certification by NARM; or

(B) successful completion of:

(i) a basic midwifery education course; and

(ii) the NARM exam or any other comprehensive exam approved by the department;

~~(4) [(3)] proof of current CPR ~~[cardiopulmonary resuscitation (CPR)]~~ certification; ~~[for health care providers by the American Heart Association; equivalent certification for the professional rescuer from the Red Cross; equivalent certification for healthcare and professional rescuer from the National Safety Council; or equivalent certification issued by any provider of CPR certification for health care providers currently accepted by the Department of State Health Service's Office of EMS/Trauma Systems Coordination;]~~~~

~~(5) [(4)] proof of current certification in [for] neonatal resuscitation, §§1 - 4, from the American Academy of Pediatrics or an equivalent certification approved by the department;~~

~~(6) [(5)] proof of one of the following:~~

~~(A) satisfactory completion of training in the collection of newborn screening specimens; or~~

~~(B) an established relationship with another qualified and appropriately credentialed health care provider who has agreed to collect newborn screening specimens on behalf of the applicant;~~

~~(7) [(6)] the ~~[a nonrefundable]~~ fee required under §115.80; and~~

~~(8) [(7)] proof of passing the jurisprudence examination approved by the department within ~~[-The~~~~

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~~jurisprudence examination must have been taken no more than~~ one year prior to the date of application.

(b) Initial licensure after interim of more than four years. An application for ~~[A midwife seeking]~~ initial licensure submitted more than ~~[who has not become licensed within]~~ four years after the applicant's completion of ~~[completing]~~ a basic midwifery education course ~~[approved by the department or accredited by MEAC shall in addition]~~ must also include ~~[provide]~~ proof of completion of ~~[having completed]~~ at least 40 ~~[contact]~~ hours of ~~[approved midwifery]~~ continuing education within the year preceding the application, which must include ~~[shall be based upon]~~ a review of:

(1) the current Texas Midwifery Basic Information and Instructor ~~[Instructors]~~ Manual; and

(2) the current MANA ~~[Midwives Alliance of North America (MANA)]~~ Core Competencies and Standards of Practice.

(c) – (e) (No change.)

(f) An initial midwife license is valid from the date of issuance until March 1 of the second calendar year following the calendar year in which it is issued.

§115.14 License Renewal

(a) A midwife license may be renewed for a two-year period by submitting to the department:

(1) – (2) (No change.)

(3) proof of [a] current CPR certification; ~~[for health care providers from one of the following:]~~

~~[(A) the American Heart Association;]~~

~~[(B) equivalent certification for the professional rescuer from the Red Cross;]~~

~~[(C) equivalent certification for healthcare and professional rescuer from the National Safety Council; or]~~

~~[(D) equivalent certification issued by any provider of CPR certification for health care providers currently accepted by the Department of State Health Services' Office of EMS/Trauma Systems Coordination;]~~

(4) – (7) (No change.)

(b) – (d) (No change.)

(e) An individual applying for renewal of a midwife license must successfully pass a criminal history

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background check.

§115.15 Late Renewal

Late license renewal. A midwife whose license has expired ~~[who fails to apply for license renewal by March 1 of the end of a renewal period in which the midwife is currently licensed,]~~ may apply for late license renewal in accordance with the department's procedural rules at 16 TAC §60.31 and §60.83 ~~[on or before March 1 of the following year]~~. Applications for late license renewal must include the following:

- (1) each of the items required for timely renewal; and
- (2) the ~~[a nonrefundable late renewal]~~ fee required under §115.80.

§115.16 ~~[Renewal for]~~ Retired Voluntary ~~[Midwives Performing]~~ Charity Care ~~[Work]~~ Status License

(a) Applicability. This section implements Texas Occupations Code, Chapter 112. This section applies to a person who holds a midwife license issued by the department. ~~[A retired midwife who is only providing voluntary charity care:]~~

~~[(1) may renew his or her midwifery license by submitting all the items required for renewal, the retired midwife renewal fee, and only five hours of approved midwifery continuing education.]~~

~~[(2) may renew his or her midwifery license late by submitting all the items required for late renewal, the retired midwife renewal fee, and only five hours of approved midwifery continuing education.]~~

(b) Eligibility. To be eligible for a retired voluntary charity care status license, the person must:

- (1) hold an active midwife license issued by the department;
- (2) not have any pending or current disciplinary actions against the person or the person's license; and
- (3) not be employed, under contract, or otherwise engaged in the practice of midwifery for compensation.

~~[(b) A retired midwife who has previously renewed under this subsection, and then subsequently seeks to return to employment in the active practice of midwifery in Texas, must either:]~~

~~[(1) be currently licensed under this subsection but not due for renewal, and submit the following items to the department:]~~

~~[(A) ten hours of continuing education, taken in the 12 months preceding the application;]~~

~~[(B) the retired midwife reinstatement fee; and]~~

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~~[(C) a written request to return his or her license to active status; or]~~

~~[(2) be currently licensed under this subsection and when billed for renewal, submit all the items required for renewal with a written request to return his or her license to active status; and]~~

~~[(3) receive approval from the department prior to returning to active practice.]~~

(c) Initial application. To apply for a retired voluntary charity care status license, the person must:

- (1) submit a completed application on a department-approved form;
- (2) certify in writing that the person is retired and will provide only voluntary charity care;
- (3) submit any fee required under §115.80; and
- (4) successfully pass a criminal history background check.

(d) Practice. A person holding a retired voluntary charity care status license:

- (1) may not provide midwifery services for compensation; and
- (2) is limited to providing only those services authorized under a midwife license.

(e) Disciplinary actions. A person holding a retired voluntary charity care status license is subject to disciplinary action for:

- (1) a violation of the Act or the rules adopted under this chapter;
- (2) obtaining, or attempting to obtain, retired voluntary charity care status by submitting false or misleading information to the department; or
- (3) engaging in the practice of midwifery for compensation.

(f) License term. A retired voluntary charity care status license is valid for two years from the date of issuance and may be renewed biennially.

(g) Renewal.

(1) To renew a retired voluntary charity care status license, a licensee must:

- (A) submit a completed application on a department-approved form;
- (B) submit all the items required for renewal of a midwife license under §115.14, with the exception that only five hours of continuing education must be completed;

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(C) submit any fee required under §115.80; and

(D) successfully pass a criminal history background check.

(2) A person whose retired voluntary charity care status license has expired may late renew the license in accordance with the procedures set out under §60.31 and §60.83 of this title.

(3) A person whose retired voluntary charity care status license has expired may not practice or engage in midwifery or perform voluntary charity care.

(h) Returning to active status.

(1) A person who holds a retired voluntary charity care status license and who wants to return to active status must:

(A) submit a completed application on a department-approved form;

(B) complete 10 hours of continuing education in the 12 months preceding the application;

(C) submit the midwife license renewal application fee required under §115.80; and

(D) successfully pass a criminal history background check.

(2) The application must be approved by the department before the person can return to active status and provide midwifery services for compensation.

§115.20 Basic Midwifery Education Course Eligibility

~~[(a)] To be eligible for approval by the [The] department as a basic midwifery education course, a course must: [shall consider for approval only courses which have a course supervisor/administrator and site in Texas.]~~

~~[(b) Mandatory basic midwifery education shall:]~~

~~(1) have a course administrator and site in Texas[be offered to ensure that only trained individuals practice midwifery in Texas];~~

~~(2) be offered only by an[any] individual or organization meeting the requirements for course approval established by this section[subsection];~~

~~(3) include a didactic component which shall:~~

~~(A) be based upon and completely cover the [most] current Core Competencies and Standards of Practice of MANA [the Midwives Alliance of North America (MANA)] and the current~~

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Texas Midwifery Basic Information Manual;

(B) prepare the student to apply for certification by NARM; [~~North American Registry of Midwives (NARM);~~] and

(C) include a minimum of 250 hours course work.

(4) be supervised and conducted by a course administrator [~~supervisor/administrator~~] who shall:

(A) be responsible for all aspects of the course; [~~and~~]

(B) have two years of experience in the independent practice of midwifery, nurse-midwifery, or obstetrics; [~~and~~]

(C) have been primary care giver for at least 75 births including provision of prenatal, intrapartum, and postpartum care; and

(D) be at least one of the following: [~~have met initial licensure requirements; or~~]

(i) a licensed midwife;

(ii) [~~(E)-be~~] a Certified Professional Midwife (CPM); [~~or~~]

(iii) [~~(F)-be~~] American College of Nurse Midwives (ACNM) certified; or

(iv) [~~(G)-be~~] a [~~licensed~~] physician licensed in Texas and actively engaged in the practice of obstetrics in an out-of-hospital setting;[~~;~~]

(5) include didactic curriculum instructors who:

(A) have training and credentials for the course material they will teach; and

(B) are approved by the course administrator [~~supervisor/administrator~~].

(6) provide clinical experience [~~experience/preceptorship~~] of at least two years [~~one year~~] but no more than five years and equivalent to 1,350 clinical contact hours which prepares the student to become certified by NARM, including successful completion of at least the following activities:

(A) Phase 1. Document attendance at 10 births in any setting, in any capacity (observer, doula, family member, friend, beginning student).

(i) The births may be verified by any witness who was present at the birth.

(ii) The births may not include the person's own birth.

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~~[(A) serving as an active participant in attending 20 births;]~~

(B) Phase 2. After completion of Phase 1, document completion of the following activities, as an assistant under direct supervision:

(i) 20 births;

(ii) 25 prenatal exams, including 3 initial exams;

(iii) 20 newborn exams; and

(iv) 10 postpartum exams.

~~[(B) serving as the primary midwife, under supervision, in attending 20 additional births, at least 10 of which shall be out of hospital births. A minimum of 3 of the 20 births attended as primary midwife under supervision must be with women for whom the student has provided primary care during at least 4 prenatal visits, birth, newborn exam and one postpartum exam;]~~

(C) Phase 3. After completion of 18 births under Phase 2, document completion of the following activities, as a primary under direct supervision:

(i) 20 births, including:

(I) five births for which the student provides a continuity of care consisting of a minimum of:

(-a-) five prenatal exams spanning at least two trimesters;

(-b-) the birth, including the placenta;

(-c-) the newborn exam (within 12 hours of the birth); and

(-d-) at least two postpartum exams (between 24 hours and 6 weeks following the birth); and

(II) 10 births that include at least one prenatal exam;

(ii) 75 prenatal exams, including 20 initial exams;

(iii) 20 newborn exams; and

(iv) 40 postpartum exams;

~~[(C) serving as the primary midwife, under supervision, in performing:]~~

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~~[(i) 75 prenatal exams, including at least 20 initial history and physical exams;]~~

~~[(ii) 20 newborn exams; and]~~

~~[(iii) 40 postpartum exams.]~~

(7) include preceptors who are approved by the course administrator; ~~[supervisor/administrator and shall be:]~~

~~[(A) licensed midwives;]~~

~~[(B) certified professional midwives;]~~

~~[(C) certified nurse midwives; or]~~

~~[(D) physicians licensed in the United States and actively engaged in the practice of obstetrics.]~~

(8) ~~[(e)]~~ allow student enrollment only to individuals who ~~[Individuals enrolled as students in an approved midwifery course must]~~ possess:

(A) ~~[(4)]~~ a high school diploma or the equivalent; and

(B) ~~[(2)-a]~~ a current CPR certification ~~[Cardiopulmonary Resuscitation (CPR) certificate for health care providers from the American Heart Association; an equivalent CPR certificate for the professional rescuer from the Red Cross; equivalent certification for healthcare and professional rescuer from the National Safety Council; or equivalent certification issued by any provider of CPR certification for health care providers currently accepted by the Department of State Health Services' Office of EMS/Trauma Systems Coordination].~~

§115.21 Basic Midwifery Education Course Approval

(a) Course approval.

(1) To obtain initial approval as a basic midwifery education course, the ~~[The]~~ course administrator ~~[supervisor/administrator]~~ must ~~[shall]~~ submit to the department a completed ~~[an]~~ application, the ~~[form and a non-refundable initial midwifery course application]~~ fee required under §115.80, and ~~[to the department with]~~ the following supporting documentation:

(A) course outline;

(B) course curriculum with specific content references to:

(i) MANA Core Competencies;

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(ii) NARM Written Test Specifications;

(iii) NARM Skills Assessment Test Specifications;

(iv) Texas Midwifery Basic Information and Instructor Manual; and

(v) protocol writing, adaptation, and revision;[-]

(C) identification of didactic and preceptorship teaching sites;

(D) a financial statement or balance sheet (within the last year) for the course administrator [~~supervisor/administrator~~] or course owner demonstrating the ability to provide refunds to any students who enroll [~~and disclosure of any bankruptcy within the last five years~~]; and

(E) written policies to include:

(i) entrance requirements;

(ii) [(+)] a tuition schedule and a list of all additional fees or[-,other] charges;[-,and]

(iii) cancellation and refund policy, including the right of any prospective student to cancel an [his/her] enrollment agreement within 72 hours after signing the agreement and receive a full refund of any money paid;

(iv) [(+)] student attendance, progress, and grievance policies;

(v) [(+)] rules of operation and conduct of course [~~school~~] personnel;

(vi) [(+)] information on the requirements for state licensure, including the notice required by Occupations Code §53.152;

(vii) [(+)] disclosure of the approval status of the course; and

(viii) [(+)] maintenance of student files.[-,and]

[(+)] reasonable access for non-English speakers and compliance with federal and state laws on accessibility.

(2) Student files shall be maintained for a minimum of three [~~five~~] years after the student is no longer enrolled in the course and shall include:

(A) evidence that the entrance requirements have been met, including CPR certification;

(B) documentation of progression and [~~demonstrating~~] completion of didactic and clinical

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course work; and

(C) copies of any financial agreements between the student and the course ~~[school]~~.

(3) ~~[The department staff shall review each course application submitted for approval.]~~ If an application for initial approval meets all ~~[of]~~ the requirements ~~[specified in this paragraph]~~, a one-year provisional approval will be granted. The course administrator must then schedule with the department an [A] on-site evaluation of the course to occur within the provisional year [shall be scheduled]. The evaluation shall be conducted by ~~[a member of the]~~ department staff and a licensed midwife within the provisional year. If the department is unable to conduct an on-site evaluation within the provisional year, the provisional approval will be extended until the department conducts an on-site evaluation and issues its approval or denial of the course. The on-site evaluation ~~[site visit]~~ will include the following:

(A) an inspection of the course's facilities;

(B) a review of its teaching plan, protocols, and teaching materials;

(C) a review of didactic and preceptorship instruction;

(D) interviews with staff and students; and

(E) a review of student, staff and preceptor files, to include coursework, protocols, and financial records.

(4) ~~The [A nonrefundable site visit]~~ fee required under §115.80 shall be assessed for each on-site evaluation ~~[site visit]~~.

(5) The on-site evaluation ~~[site visit]~~ written report shall recommend to the department approval or denial of the course.

(6) The department shall evaluate the application and all other pertinent information, including any complaints received and the on-site evaluation ~~[site visit]~~ report.

(b) Course reciprocity. A ~~[basic midwifery education]~~ course located in Texas which is currently accredited or pre-accredited by MEAC ~~[the Midwifery Education Accreditation Council (MEAC)]~~ shall be deemed approved as a basic midwifery education course, without an on-site evaluation, under this subsection upon submission to the department of evidence of such accreditation and the fee required under §115.80. An approval under this subsection is effective only for the period of time during which the course is accredited or pre-accredited by MEAC. A course approved under this subsection that later has its MEAC accreditation or pre-accreditation suspended or revoked must apply for department approval under subsection (a) within 10 days after the suspension or revocation.

(c) Duration of course approval.

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(1) The department shall approve basic midwifery education courses for a three year period. A course with reciprocity under subsection (b) will continue its reciprocity for as long as the course maintains MEAC accreditation or pre-accreditation.

(2) To obtain a new approval period for a current basic midwifery education course, the course administrator must, within [Course supervisors/administrators shall reapply for approval] six months before the [prior to] expiration date of the current course approval:[:]

(A) submit to the department a completed application;

(B) schedule with the department, and successfully pass, an on-site evaluation to occur before the expiration date of the current course approval; and

(C) submit to the department the fee required under §115.80 for the on-site evaluation.

(d) Course changes. A [Any] substantive change to [change(s) in] a basic midwifery course [the course] or its content must be approved by [shall be submitted to] the department before the change is implemented [within ten working days after change(s)].

(e) Transfer hours. A basic midwifery education course may accept:

(1) didactic and clinical transfer hours from another basic midwifery education course; and

(2) clinical hours earned under a NARM-certified preceptor.

§115.22 Preceptor Supervisory Responsibilities

(a) All clinical experience activities performed by a student must be under the direct supervision of a preceptor in accordance with this section.

(1) The student shall perform only the activities authorized by the preceptor.

(2) The student shall not advertise, or represent to the public in any way, that the student is a midwife.

(3) The student shall not receive compensation from a client for performing supervised activities.

(4) Before any service involving a student is provided to a client:

(A) the client must be informed in writing of:

(i) the requirements of this section;

(ii) the identity and license status of the preceptor and the student;

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(iii) the services that will be provided under direct supervision to the client; and

(B) the client must consent in writing to the services being provided under direct supervision.

(b) A student acting under direct supervision in accordance with this section is not practicing midwifery in violation of the requirement to hold a license.

(c) A licensed midwife providing direct supervision of a student is responsible for all actions and liabilities of the student.

§115.23 Jurisprudence Examination

(a) – (c) (No change.)

(d) The department may contract with a vendor to administer the examination. Examination fees will be determined by the vendor contract and will be posted on the department's website. Reexaminations will be made available as necessary. The department or the contracting vendor will grade the examination and provide notice of results to the individual who took the examination.

§115.25 Continuing Education

All continuing education taken by midwives for the purpose of obtaining or renewing a midwifery license must be in accordance with this section.

(1) (No change.)

(2) Course curriculum must provide an educational experience which:

(A) covers established knowledge or new developments in the fields of midwifery, ~~[or]~~ related disciplines; and ~~[or]~~

~~[(B) reviews established knowledge in the fields of midwifery or related disciplines; and]~~

~~[(B) [(C)] shall be presented in standard contact hour increments for continuing health education.]; and]~~

~~[(D) shall provide reasonable access for non-English speakers and comply with federal and state laws on accessibility.]~~

(3) (No change.)

(4) Course approval. To be approved by the department, a continuing education course must:
~~[Continuing education courses attended to fulfill licensure or license renewal requirements shall be accepted when the courses:]~~

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(A) satisfy the requirements of paragraph (2) [~~(2)(A)–(C)~~]; and

(B) be provided or [~~are~~] accredited by one of the following [~~accrediting~~] bodies:

- (i) a professional midwifery [~~association~~], nursing, social work, or medical association [~~medicine~~];
- (ii) a college, a university, or a [~~an approved~~] basic midwifery education course;
- (iii) a nursing, medical, or health care organization;
- (iv) a state board of nursing or medicine;
- (v) a department of health; or
- (vi) a hospital.

§115.70 Standards of Conduct

The following are grounds for denial of application for licensure or license renewal and for disciplinary action.

(1) The commission or executive director may deny an application for initial licensure or license renewal and may take disciplinary action against any person based upon proof of the following:

(A) – (K) (No change.)

[~~(L) a lack of personal or professional character in the practice of midwifery;~~]

(L) [~~(M)~~] failure to use generally accepted standards of midwifery care;

(M) [~~(N)~~] failure to exercise ordinary diligence in the provision of midwifery care;

(N) [~~(O)~~] failure to act competently in the provision of midwifery care; or

(O) [~~(P)~~] a material misrepresentation knowingly made to the department on any matter or to a client during the provision of midwifery care.

(2) (No change.)

(3) The commission or executive director may suspend or revoke course approval if:

(A) the course no longer meets one or more of the standards established by this chapter [~~subsection~~];

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(B) the course administrator [~~supervisor~~], an instructor [~~instructor(s)~~], or a preceptor does [~~preceptor(s) do~~] not have the qualifications required by this chapter [~~subsection~~];

(C) course approval was obtained by fraud or deceit;

(D) the course administrator [~~supervisor~~] falsified course registration, attendance, completion and/or other records; or

(E) course approval was based on MEAC accreditation or pre-accreditation that has since been suspended or revoked [~~continued approval of the course is not in the public interest~~].

§115.75 (No change.)

§115.80 Fees

All fees must be made payable to the department and are nonrefundable.

(1) Midwife license initial application [~~Application~~] fee--\$275

(2) Midwife license renewal application [~~Renewal~~] fee--\$550 for each two-year renewal period

(3) (No change.)

(4) Retired voluntary charity care status license initial application [~~midwife renewal~~] fee--\$0 [~~\$275~~]

(5) Retired voluntary charity care status license renewal application [~~midwife reinstatement~~] fee--\$0 [~~\$275~~]

(6) (No change.)

(7) Basic midwifery education [~~Education~~] course initial application fee--\$150

(8) Basic midwifery education [~~Education~~] course on-site evaluation [~~site visit~~] fee--\$500

(9) – (11) (No change.)

§115.100 Standards for the Practice of Midwifery in Texas

(a) Using reasonable skill and knowledge, the midwife shall:

(1) – (3) (No change.)

(4) practice in accordance with the knowledge, clinical skills, and judgments described in the current [~~most recently adopted~~] version of the MANA [~~Midwives Alliance of North America (MANA)~~] Core

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Competencies for Basic Midwifery Practice, within the bounds of the midwifery scope of practice as defined by the Act and this chapter [Rules];

(b) (No change.)

(c) The midwife shall document midwifery care in legible, complete health records. The midwife shall:

(1) (No change.)

(2) review problems identified by the midwife or by other professionals or consumers in the community; ~~and~~

(3) act to resolve problems that are identified; ~~and~~

(4) – (5) (No change.)

(d) (No change.)

§§115.111 – 115.119 (No change.)

§115.120 Newborn Screening

(a) Each midwife who assists at the birth of a child is responsible for performing the newborn screening tests according to the Health and Safety Code, Chapters 33 and 34, and 25 TAC §§37.51 - 37.65, or making a referral in accordance with this subsection. A midwife shall not perform the tests without appropriate training. ~~[If the midwife performs the tests, then she or he must have been appropriately trained.]~~ Each midwife must have one of the following documents on file with the department to maintain licensure ~~in order to be licensed~~.

(1) Midwife Training Certification Form for Newborn Screening Specimen Collection. Should the midwife choose to do the newborn screening she or he will obtain training to perform this test from an appropriate health care facility. Instruction will be based upon the procedure for newborn screening developed by the Department of State Health Service's Newborn Screening Program under authority of the Health and Safety Code, Chapter 33, as implemented in 25 TAC, Chapter 37, Subchapter D. At the completion of the instruction for newborn screening blood collection, the midwife will request that the form Midwife Training Certification Form for Newborn Screening Specimen Collection be signed by the designated representative of the health care facility, attesting to the fact that the midwife has complied with this requirement. This training, as part of the licensure requirements, is only necessary once unless there is a change in screening procedures.

(2) (No change.)

(b) (No change.)

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~~(c) [As long as one is available, a physician or an appropriately trained professional acting under standing delegation order from a physician at an appropriate health care facility shall instruct midwives in the proper procedure (newborn screening collection procedure of the Department of State Health Services' Newborn Screening Program) for newborn screening blood specimen collection and submission.]~~ The physician, registered nurse, or any other person who instructs a midwife in the approved techniques for newborn screening on the orders of a physician is immune from liability arising out of the failure or refusal of a midwife to:

(1) collect and submit the blood specimen in an approved manner; or

(2) send the samples to the laboratories designated by the Department of State Health Services in a timely manner.

(d) (No change.)

§115.121 Informed Choice and Disclosure Statement

(a) A midwife must use the form prescribed by the department to meet the written informed choice and disclosure requirements of §203.351 of the Act.

(b) The content of the form described in subsection (a) must be provided to a prospective client in both oral and written form before any midwifery service is provided.

(c) A student performing clinical experience activities must have informed consent as required by §115.22.

~~[The written informed choice and disclosure statement which has been approved by the department shall include:]~~

~~[(1) an informed choice statement containing:]~~

~~[(A) statistics of the midwife's experience as a midwife;]~~

~~[(B) the date of expiration of the midwife's license;]~~

~~[(C) the date of expiration of the midwife's adult and infant cardiopulmonary resuscitation and neonatal resuscitation certification;]~~

~~[(D) the midwife's compliance with continuing education requirements; and]~~

~~[(E) medical backup arrangements; and]~~

~~[(2) a disclosure statement, which includes the legal requirements of the midwife and prohibited acts as stated in the Act. The disclosure statement may not exceed 500 words and must be in Spanish and English; and must contain;]~~

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~~[(3) information on where to file a complaint against a licensed midwife, including the name, mailing address and telephone number for the department.]~~

§§115.122 – 115.123 (No change.)

§115.125 (No change.)

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